

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Office of Federal Procurement Policy Act

FROM:	STAT	STAT	EXTENSION	NO.
Office of General Counsel				DATE 12 January 1982

TO: (Officer designation, room number, and building)

DATE

RECEIVED

FORWARDED

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. STAT		83-16			<p>Attached for your review please find a copy of the "Office of Federal Procurement Policy Act Amendments of 1982" and a draft views letter thereon prepared for the General Counsel's signature.</p> <p>We would appreciate your comments no later than COB, Friday, 14 January 1983.</p> <p>Attachments</p> <p>3 to O.</p> <p>Orally concurred in draft views letter.</p> <p>17 Jan 82 - Orally concurred on revised LO/OGC opinion to "no objection" OMB request</p>
2.	AGC/L&PL	1/12/83			
3. STAT					
4.	DAGC/L&PL	1/14/83			
5.	7B42 Hqs.		STAT	STAT	
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STAT 2

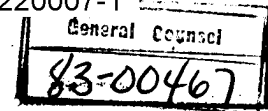
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EXEC FIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503



SPECIAL

January 7, 1983

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of Defense
General Services Administration
National Aeronautics and Space
Administration
Small Business Administration
Veterans Administration
Department of Transportation
Department of Health and Human Services
Department of the Treasury
Department of Justice
Department of the Interior
Department of Agriculture
Federal Emergency Management Agency

January 11, 1983

Tennessee Valley Authority
Department of Labor
Central Intelligence Agency
Department of Energy
Department of State

SUBJECT: Draft OFPP bill "To provide for the use of simplified procedures in the procurement of property and services by the Government when the amount does not exceed \$25,000."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

This proposal is consistent with the Administration's 1982 proposal for a Uniform Federal Procurement System. Your concurrence will be assumed unless we hear from you by COB Friday, January 14, 1983.

Direct your questions to Gregory Jones (395-3802) of this office.


James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: L. Dowd

OGC 83-00538
5 January 1983

MEMORANDUM FOR THE RECORD

SUBJECT: Uniform Federal Procurement System

1. On January 5, 1983, I spoke with Gregory Jones, Office of Management and Budget (OMB) regarding the Uniform Federal Procurement System (UFPS) package. Specifically, I asked him whether or not OMB's Office of Federal Procurement Policy (OFPP) was preparing either for comment within the Administration and/or transmission to the 98th Congress a new version of the UFPS package.

2. Mr. Jones stated that OFPP was not preparing another UFPS package for the 98th Congress. The only legislative item which OFPP would be initiating during the first session of the 98th Congress would be legislation to reauthorize OFPP itself as its current authorization expires on September 30, 1983. 41 U.S.C. §410. Mr. Jones promised to send this legislation to me for review and comment on behalf of the Agency.

3. The above was reiterated in another conversation I had with Mr. Jones on January 6, 1983. It was also confirmed in a conversation I had with Mr. Lincoln Hoewing of the Senate Governmental Affairs Committee. In our conversation, Mr. Hoewing indicated that the procurement legislation on which his Committee intended to act was the reintroduced version of S. 2127 (not introduced as yet). Governmental Affairs intended to work with the Senate Armed Services Committee to overcome the latter's objections to the bill, hold hearings on it in the spring and report it out sometime thereafter with Armed Services possibly obtaining a sequential
STAT referral.

Office of General Counsel

STAT cc: [redacted] (AGC/L&PL)
[redacted] (DAGC/L&PL)
STAT [redacted] (L&PL)

Distribution

✓ Orig - LED File: Procurement (98th Congress)
1 - PS Signer
1 - OGC Signer

RECORD OF ORAL RESPONSE

BILLS AND LEGISLATIVE REFERRALS

OK - but
lets have
something ready
anyway

Date: January 5, 1983

Office: OMB

Person: Greg Jones (395-3802)

Subject: Uniform Federal Procurement Policy

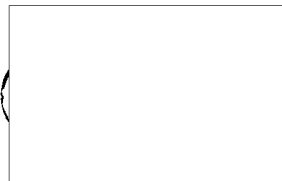
Bill No.: _____

Comment: I called Mr. Jones to ask him whether or not the agencies
would be receiving for comment a package similar to the "Uniform
Federal Procurement System" package which we had received last year.

He said no! He indicated that the individuals in OMB's Office
of Federal Procurement Policy had indicated that there was no way that
package would go through this year (although he wasn't clear whether
he meant through the Administration or through the Congress). Instead,
there is a draft bill reauthorizing the OFPP; its five year authorization
expires this year. He then asked if we had received a copy of the
legislation for comment. I said no and asked if he would send it for
comment; he agreed.

Given the above, I suggest we wait on responding to the OFPP letter
of July until we have seen the draft OFPP reauthorization bill.

STAT





EXECUT. : OFFICE OF THE PRESIDENT.

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Ynes
SPECIAL

December 29, 1982

LEGISLATIVE REFERRAL MEMORANDUM

NOTE p.6
(4)

TO: Legislative Liaison Officer

Department of Defense
General Services Administration
Department of Energy
Veterans Administration
Small Business Administration
Department of Transportation
Department of Justice
Department of Health and Human Services
Department of the Treasury
Department of Labor
Office of Personnel Management
Department of the Interior
Department of Agriculture
National Aeronautics and Space Administration

Environmental Protection Agency

+ CIA

SUBJECT: OFPP draft bill "to amend Public Law 93-400 in order to enhance the role of the Office of Federal Procurement Policy in Government contracting, to establish a Federal Procurement System, and for other purposes."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please provide us with your views no later than January 12, 1983

Direct your questions to Gregory Jones (395-3802), of this office.

[Signature]
James C. Murr for
Assistant Director for
Legislative Reference

Enclosures

cc: L. Dowd
A. Dixon



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

Dear Mr. Speaker/Mr. President:

There is transmitted herewith a proposed bill "to amend Public Law 93-400 in order to enhance the role of the Office of Federal Procurement Policy in Government contracting, to establish a Federal Procurement System, and for other purposes." The bill would also provide for reauthorization of the Office of Federal Procurement Policy for five years, until September 30, 1988.

It is necessary to reauthorize the Office of Federal Procurement Policy, whose enabling legislation will expire on September 30, 1983, in order to further the goals of procurement reform set forth in the Administration's Proposal for a Uniform Federal Procurement System submitted to the Congress on February 26, 1982. The enclosed bill provides the necessary reauthorization for the Office. In addition, the bill reaffirms the need to continue OFPP as the focal point for establishing Government-wide procurement policies, facilitating the resolution of differences among executive agencies with respect to the Government-wide procurement regulation, coordinating the development of Government-wide standards for measuring procurement effectiveness, and providing policy direction and oversight for the Federal Acquisition Institute in the development and implementation of programs to improve the quality and performance of the procurement work force.

The President issued Executive Order No. 12352 on March 17, 1982, in furtherance of his commitment to procurement reform. That Executive order requires the heads of agencies to take a series of management actions to simplify and streamline the procurement process and make it more cost effective and responsive. It calls upon the Director of the Office of Personnel Management to help develop a more professional procurement work force. Finally, it requires the

Director of the Office of Management and Budget -- through the Office of Federal Procurement Policy -- to provide broad policy guidance and leadership in achieving procurement reform. Reauthorization of the Office of Federal Procurement Policy and the enhanced authority for the Office are necessary to further this Administration's reforms begun by Executive Order No. 12352.

Sincerely,

Joseph R. Wright, Jr.
Deputy Director

**CHANGES TO THE OFPP ACT AMENDMENTS
SUBMITTED TO CONGRESS ON APRIL 30, 1982**

1. **Sec. 6(a) -- Authority and Functions of the Administrator.** Functions in subsections (4) and (7) have been transferred to the Federal Acquisition Institute as a new Title II. A new subsection (8) provides the Administrator with "policy direction and oversight of the FAI in pursuit of its designated mission and objectives."
2. **Sec. 6(b) -- Testing.** Provides an additional requirement that "the procedures to be followed" be included in the notification to Congress.
3. **Sec. 12 -- Progress Reports.** Amends this section to require a report by the Administrator at the end of each calendar year, commencing on December 31, 1983, of progress in establishing and implementing the Uniform Federal Procurement System.
4. **Sec. 14 -- Non-Interference with Executive Agencies.** Subsection (3) has been deleted as redundant.
5. **Sec. 19 -- Authority to Test New Concepts and Methods of Competition.** All reference to testing new concepts and methods of competition has been deleted; new guidelines have been established for testing new procurement methods and procedures.
6. **Title II establishes the Federal Acquisition Institute in the General Services Administration under the policy direction and oversight of the Administrator for Federal Procurement Policy.**

A BILL

To amend Public Law 93-400 to enhance the role of the Office of Federal Procurement Policy in Government contracting, to establish a Federal Procurement System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101.(a) This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1982."

(b) As used in this Act, the term "the Act" means the Office of Federal Procurement Policy Act.

SEC. 102. Section 2 of the Act (41 U.S.C. 401) is amended to read as follows --

"SEC. 2. It is the policy of the Congress that the Federal Government shall rely on competitive private enterprise to supply needed property and services, and that the system for procurement of property and services by the Federal Government shall --

"(1) promote responsiveness to agency mission needs by simplifying and streamlining procurement processes;

- "(2) promote effective competition;
- "(3) provide for a fair proportion of contracts to be placed with small business concerns;
- "(4) support the continuing development of a professional work force;
- "(5) promote fair dealings with the private sector;
- "(6) ensure payment is made in a timely manner and only for value received;
- "(7) require the description of needs, whenever practicable, in terms of functions to be performed or performance required;
- "(8) establish a preference for the use of commercial products, wherever suitable, to meet the Government's needs;
- "(9) ensure the development of procurement policies that will accommodate serious emergencies and wartime as well as peacetime requirements;
- "(10) require that personal services are obtained in accordance with civil service procedures and not by contract; and

"(11) otherwise promote procurement efficiency, effectiveness and economy within the Government and for those who do business with the Government."

SEC. 103. Section 3 of the Act (41 U.S.C. 402) is amended --

(a) in the catchline by deleting "Findings and"; and

(b) in section 3(b) by deleting everything after "overall" and inserting in its place "leadership and coordination in the development of Government-wide procurement policies and the implementation and maintenance of the Federal procurement system, which includes the Government-wide procurement regulation and standards and programs to improve the quality and performance of the procurement work force."

SEC. 104. Section 4 of the Act and its catchline (41 U.S.C. 403) are amended to read as follows --

"DEFINITIONS

"As used in this Act --

"(1) "executive agency" means an executive department, a military department, a wholly-owned Government corporation fully subject to the provisions of Title I of the Government Corporation Control Act, or an

independent establishment in the executive branch of the Government, or an independent regulatory agency;

"(2) "federal procurement system" means the integration of the procurement process, the development of the procurement work force, and the management structure for carrying out the procurement function;

"(3) "grant or cooperative agreement" does not include an agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided;

"(4) "procurement" includes all stages of the process of acquiring property and services, beginning with how needs are described and ending with the close out of the contractual instrument;

"(5) "standards" means the criteria for measuring the effectiveness of the procurement function. "Government-wide standards" are generally the broad standards which can be applied to all agencies, and "agency standards" are those which are unique to an agency."

SEC. 105. Section 6 of the Act and its catchline (41 U.S.C. 405), are amended to read as follows --

"AUTHORITY AND FUNCTIONS OF THE ADMINISTRATOR

"~~SEC. 6(a)~~ The Administrator shall provide overall leadership in the development and implementation of procurement policies and the coordination of programs to implement and maintain the Federal procurement system, including programs to improve the quality and performance of procurement personnel, by --

"(1) ~~developing~~ and promulgating (A) Government-wide procurement policies which shall be in accordance with applicable laws and the policies and purposes of this Act and shall be followed by executive agencies and (B) procurement policies and principles to be followed by recipients of Federal assistance under grants or cooperative agreements in the procurement of property and services required for the performance of such assistance programs. Policy directives may require executive agencies to issue implementing regulations that are in accord with the policies set forth in those policy directives;

"(2) coordinating the development of Government-wide procurement system standards and assisting agencies in the development of agency system standards;

"(3) providing leadership in the development and maintenance of the Government-wide procurement regulation and in the development of simplified Government-wide procedures and forms;

["(4) providing leadership and coordination in the formulation of the executive branch position on legislation relating to procurement;]

"(5) providing for a computer-based Federal Procurement Data System;

"(6) completing action, as appropriate, on the recommendations of the Commission on Government Procurement;

"(7) establishing procedures to ensure an effective and timely method of soliciting the viewpoints of interested parties in the development of procurement policies and regulations; and

"(8) providing policy direction and oversight for the Federal Acquisition Institute in pursuit of its designated mission and objectives.

"(b) Notwithstanding any other provisions of law, the Administrator may develop innovative procurement methods and procedures to be tested by selected executive agencies. Such tests shall require the concurrence of the Director, Office of Management and Budget, and the heads of the executive agencies concerned. The Administrator shall notify the appropriate committees of Congress at least 60 days in advance if a test requires that the Administrator waive existing provisions of law. The notification to Congress shall include a description of the proposed test, its scope and purpose, the procedures to be followed, and the executive agencies involved. The

Administrator shall also consult with the Small Business Administration in developing such tests to ensure that the interests of small business firms are appropriately considered.

"(c) In carrying out the functions in section 6(a) of this Act, the Administrator shall consult with the affected executive agencies, including the Small Business Administration. With the concurrence of these agencies, the Administrator may designate an executive agency or agencies, establish advisory committees or interagency groups, or otherwise arrange for participation by agency representatives or personnel to provide advice and make recommendations to the Administrator in the performance of functions under this Act.

"(d) In carrying out the functions in section 6(a) of this Act and in order to further develop and maintain the expertise in agency procurement operations necessary to provide leadership in Government procurement policy, the Administrator may arrange to detail Office of Federal Procurement Policy employees to other executive agencies."

SEC. 106. Section 222 of the Act of October 24, 1978 (92 Stat. 1771; 41 U.S.C. 405a), is repealed. *-good news - This was the uniform Fed. proc. reg. auth. but duplicates other authority*

SEC. 107.(a) Section 7 of the Act and its catchline (41 U.S.C. 406) are amended to read as follows --

"PROCUREMENT REGULATIONS, PROCEDURES AND POLICIES

"SEC. 7.(a) The Administrator shall provide overall leadership and coordination in the development and maintenance of a Government-wide procurement regulation and Government-wide procurement procedures and forms. Authority to develop, issue and maintain the Government-wide procurement regulation is vested in the Secretary of Defense, the Administrator for General Services, and the Administrator of the National Aeronautics and Space Administration. When agreement cannot be reached on the content of the Government-wide procurement regulation, the Administrator for Federal Procurement Policy will facilitate the resolution of conflicting views among those agencies. The views of executive agencies shall be solicited and taken into account in the development of the Government-wide procurement regulation.

"(b) Procurement regulations issued by executive agencies shall be in accord with the Government-wide procurement regulation required by section 7(a) and the procurement policy directives issued by the Administrator for Federal Procurement Policy."

(b) Section 7 of the Act, as it existed on the day before the effective date of this Act, is redesignated section 15 of the Act.

SEC. 108. Section 8 of the Act (41 U.S.C. 407) is amended as follows --

"FEDERAL PROCUREMENT DATA SYSTEM

"SEC. 8. The Administrator will provide for a computer-based Federal Procurement Data System for collecting, developing, analyzing, and disseminating procurement data which takes into account the needs of the Congress, the President, executive agencies, and the private sector. The Federal Procurement Data Center shall be located in the General Services Administration, which shall operate and maintain the center as the executive agent for the Administrator."

SEC. 109.(a). Section 9 of the Act and its catchline (41 U.S.C. 408) are amended to read as follows --

"THRESHOLDS

"SEC. 9.(a) Every three years, beginning the third year after enactment of this Act, the Administrator shall review the prevailing costs of labor and materials, as reflected in selected economic indices, and may:

"(1) with the concurrence of the Secretary of Defense, revise the amounts stated in Section 2304(i) of title 10, United States Code, and other related statutes which apply above the small purchase ceiling.

"(2) with the concurrence of the Administrator of the General Services Administration, revise the amounts stated in Section 302(g) of the Federal Property and Administrative Services Act and other related statutes which apply above the small purchase ceiling.

"(b) The Administrator shall transmit written notice of any proposed revision to both Houses of Congress at least 60 days prior to the effective date of the revision. The notice shall be accompanied by a detailed report which shall include —

"(1) a summary of the reasons for the revision; and

"(2) the names and positions of the employees of the Office who will be made available, prior to the effective date, for consultation regarding the revision."

(b) Section 9 of the Act as it existed on the day before the effective date of this Act, is redesignated section 16 of the Act.

SEC. 110. Section 10 of the Act (41 U.S.C. 409) and its catchline are amended to read as follows --

"DELEGATION OF AUTHORITY BY ADMINISTRATOR

"SEC. 10.(a) The Administrator may delegate and authorize successive redelegations of any authority, function, or power of the Administrator under this Act, other than the basic authority to provide overall leadership in the development of Federal procurement policies and implementation and maintenance of the Federal procurement system (including the Government-wide procurement regulation) and the authority conferred by section 9 of this Act,

11

to any executive agency with the consent of such agency or at the direction of the President."

"(b) The Administrator may make and authorize such delegations within the Office as determined to be necessary to carry out the provisions of this Act."

SEC. 111. Section 11 of the Act and its catchline (41 U.S.C. 410) are amended to read as follows --

**"FURNISHING INFORMATION TO CONGRESS AND COMPTROLLER
GENERAL**

"SEC. 11.(a) The Administrator shall keep the Congress and its duly authorized committees fully and currently informed of the major activities of the Office of Federal Procurement Policy.

"(b) The Administrator shall furnish such information as the Comptroller General may require for the exercise of the Comptroller General's responsibilities. For this purpose, the Comptroller General shall have access to all books, documents, papers and records of the Office."

SEC. 112. Section 12 of the Act (41 U.S.C. 411) is amended to read as follows --

"PROGRESS REPORTS

"SEC. 12. As of December 31, 1983, and each year thereafter for the next four years, the Administrator shall report to the Congress on the progress of the Office of Federal Procurement Policy and the executive agencies in establishing and implementing the Uniform Federal Procurement System."

SEC. 113. Section 14 of the Act and its catchline (41 U.S.C. 412) are amended to read as follows --

"NON-INTERFERENCE WITH EXECUTIVE AGENCIES

"SEC. 14. The authority of the Administrator under this Act shall not be construed to --

"(1) impair or interfere with the determination by executive agencies of their need for, or their use of, specific property, services, or construction, including particular specifications therefor; and

"(2) interfere with the determination by executive agencies of specific actions in the award or administration of procurement contracts."

SEC. 114. The Act is amended by adding the following sections:

(a) "RESTRICTIONS ON DELEGATION OF OTHER FUNCTIONS

"SEC. 17. Except as otherwise provided by law, no duties, functions, or responsibilities, other than those expressly assigned by this Act, shall be assigned, delegated, or transferred to the Administrator.";

(b) "AUTHORITY TO RESCIND REGULATIONS

"SEC. 18. The Director of the Office of Management and Budget is authorized to deny or rescind the promulgation of any rule or regulation relating to procurement that is inconsistent with the policies set forth in this Act or is inconsistent with any policy directives issued pursuant to section 6 of this Act.";

(c) "AUTHORITY TO TEST NEW CONCEPTS

"SEC. 19. In using the authority granted by section 6(b) of this Act, the Administrator shall develop innovative procurement methods and procedures to be tested by selected executive agencies. The Administrator shall work jointly with the heads of the executive agencies to --

"(1) establish the need for and objectives to be achieved in testing;

"(2) develop guidelines and procedures for testing;

"(3) select the appropriate executive agencies or agency components to test these concepts; and

"(4) establish methods to evaluate test results."

(d) "SUBMISSION OF POLICY MATTER TO CONGRESSIONAL COMMITTEES

"SEC. 20.(a) At least 30 days prior to the effective date of any policy prescribed under section 6 of this Act, the Administrator shall transmit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a detailed report on the proposed policy. Such report shall include --

"(1) a full description of the policy;

"(2) a summary of the reasons for the issuance of such policy;
and

"(3) the names and positions of employees of the Office who will be made available, prior to such effective date, for full consultation with such Committees regarding such policy.

"(b) In the case of an emergency, the President may waive the notice requirement of section 20(a) by submitting in writing to the Congress his reasons therefor at the earliest practicable date on or before the effective date of any policy.";

(e) "AUTHORIZATION OF APPROPRIATIONS

"SEC. 21. There are authorized to be appropriated to carry out the provisions of this title, such funds as are necessary for each fiscal year until September 30, 1988. Any subsequent legislation to authorize appropriations to carry out the purposes of this Act shall be referred in the Senate to the Committee on Governmental Affairs and in the House to the Committee on Government Operations."

TITLE II

SEC. 201. PURPOSE

The purpose of this title is to transfer the Federal Acquisition Institute to the General Services Administration.

SEC. 202. FUNCTIONS

(a) The Federal Acquisition Institute, under the policy direction and oversight of the Administrator for Federal Procurement Policy, shall:

(1) Foster and promote Government-wide career management programs for the professionalization of the procurement work force; and

(2) Promote and coordinate Government-wide research to improve the procurement process and procurement related laws, policies, methods, regulations, procedures and forms.

(b) The functions performed under this Title shall be carried out pursuant to the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377).

SEC. 203.

The Director of the Office of Management and Budget shall determine which personnel, property and records employed, used, held, available or to be made available in connection with the functions of the Federal Acquisition Institute shall be transferred to the General Services Administration.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to carry out the purposes of this Title such sums as may be necessary for the fiscal year ending September 30, 1984, and such sums as may be necessary for each succeeding fiscal year.

OFFICE OF FEDERAL PROCUREMENT POLICY ACT AMENDMENTS

SECTION-BY-SECTION ANALYSIS

In 1979, the Office of Federal Procurement Policy Act (P.L. 93-400) was amended by P.L. 96-83 to require the Office of Federal Procurement Policy (OFPP) to submit to the Congress proposals for a uniform procurement system, a management system which would implement and enforce the procurement system, and legislative changes needed to implement both systems. An integrated proposal for a Uniform Federal Procurement System (including the management system and proposed amendments to current procurement statutes) was submitted to the Congress on February 26, 1982. Complete implementation of the proposed Federal Procurement System will take several years and will require legislative changes as well as administrative actions by the executive branch. In this regard, Executive Order 12352 was issued on March 17, 1982, to initiate executive branch actions. The Office of Federal Procurement Policy will play a key leadership and coordinating role in implementing procurement reforms.

These amendments to the OFPP Act eliminate requirements that have been accomplished and provide an updated statutory basis for OFPP's role in implementing the Federal Procurement System and its continuing role in improving Federal procurement and in implementing E.O. 12352.

TITLE I

Section 101 states the short title of the bill, the "Office of Federal Procurement Policy Act Amendments of 1982."

DECLARATION OF POLICY

Section 2 is a comprehensive statement of the policies which are the framework for Federal procurement. They are intended to strengthen control of procurement expenditures, help make procurement more responsive to agency missions, place procurement on a more systematic, professional and businesslike basis than it is today and generally establish a foundation for improvements in the procurement process. This section also adds a national policy that the Federal Government, as a tax supported activity, should not compete with its own citizen taxpayers, but, rather, should rely on competitive private enterprise to supply the property and services it needs.

Section 2(1) sets forth one of the central themes of the Federal Procurement System proposed to the Congress by pointing out the need to simplify and streamline the procurement process in order to make it more responsive to agency needs. Federal Government procurement has become too complex and overburdened due to inadequate planning, detailed Government specifications, a myriad of regulations voluminous paperwork, and lengthy decisionmaking. The intent of this policy is to favor simplified ways of doing business with the private sector.

Section 2(2) expresses another central theme of the proposed Federal Procurement System: expanding competition. The traditional Federal concept of competition is too narrow and works against normal commercial marketplace incentives. In order to obtain effective competition, it is the intent of the proposed legislation

that Federal agencies greatly simplify and streamline the process of doing business with the Government and use new statutory concepts of competition that build on past practices.

Section 2(3) calls for a fair proportion of procurements to be placed with small business concerns. Of particular concern is the shrinking base of suppliers, especially small businesses, which is the backbone of the national industrial base. Many of the proposed changes in this legislation would benefit small businesses.

Section 2(4) calls for the continuing development by the agencies of a professional work force -- another central theme of the proposed Federal Procurement System. Such agency efforts are needed because of insufficient attention in the past to management of procurement functions in particular, the procurement work force. With upgrading of the work must come removal of the procedural restraints and excessive regulations which have unduly inhibited the exercise of business judgment and initiative by procurement personnel.

Section 2(5) would promote fair dealings with the private sector. Participation in any market, including the Government market, is voluntary. Therefore, the Government is competing with the private sector for industrial resources. To obtain competent contractors, the Government must offer satisfactory awards and an environment in which private sector managers are willing to compete.

Section 2(6) requires that payment is made to contractors in a timely manner and only for value received. Contractors are sometimes required to wait for excessive periods before payment. When interest rates are high, delays disrupt normal cash flow and seriously impact a contractor's costs and financial stability, particularly when the contractor is a small business. Furthermore, late payments by the Government restrict competition by discouraging contractors from doing business with the Government. The Government should pay its contractors on time to take advantage of offered discounts and as a norm no more than 30 days after receipt of a proper invoice.

Section 2(7) calls for the description of needs whenever practicable in terms of functions to be performed or performance required. Too many needs are described in precise detail which limits procurement strategy, restricts competition, and makes it difficult to take advantage of alternative products or services. It is the intent of this policy that wherever practicable contractors be told what the Government requires and not how to do it.

Section 2(8) would open the door to more effective competition by establishing a preference for the use of commercial products, wherever suitable, over uniquely designed items, to meet the Government's needs. This would permit the Government to take advantage of the innovation and efficiencies of the commercial marketplace, including a wide range of products which have stood the test of a much larger public competition. This will also avoid the development of Government products when suitable commercial products are available.

Section 2(9) states the policy that in embracing the new concepts of the Federal Procurement System there must be sufficient flexibility to accommodate national emergencies and wartime, as well as peacetime, requirements.

Section 2(10) recognizes that personal services are to be obtained in accordance with Civil Service procedures and not by contract. This deals with the problem of hiring contractors to do Government jobs under Government supervision who are not bound by civil service laws and thus not accountable for results. Under the new policy, such persons would have to be hired as Government employees on a limited or permanent basis. This would ensure the Government enters into non-personal service contracts in which there is a well defined end item and no day-to-day supervision required.

Section 2(11) recognizes the concept of promoting procurement efficiency, effectiveness and economy, not only within the Government, but also for those who are doing business with the Government.

PURPOSE

Section 3 reaffirms the congressional findings which were the basis for establishing the Office of Federal Procurement Policy in 1974 and the need to continue OFPP as the focal point for establishing Government-wide procurement policies. Further: it gives OFPP the leadership and coordinating role in implementing and maintaining the Federal procurement system. This role includes resolution of differences among Executive agencies with respect to the Government wide regulation. OFPP will also coordinate the development of Government-wide standards for measuring procurement effectiveness. Standards are essential to the successful operation of the procurement system, since they provide a means of measuring performance results not only for the system as a whole but for individuals involved in the procurement process.

DEFINITIONS

Section 4 defines "executive agency," "federal procurement system," "grant or cooperative agreement," "procurement," and "standards."

The definition of "executive agency" has been rewritten to clarify that the definition includes independent regulatory agencies. The definition does not include other agencies which are not established within the executive branch of the Government, such as the General Accounting Office of the Government Printing Office.

The definition of "federal procurement system" has been included because of the many references to the procurement system in connection with the role of the Office of Federal Procurement Policy. The system is the integration of the procurement process with the management structure and the procurement work force.

The definition of "grant or cooperative agreement" is new; it is identical to the definition in the Federal Grants and Cooperative Agreements Act (Public Law 95-224, 3(5); 41 U.S.C. 505(5)). This definition establishes the scope of the Administrator's authority to promulgate policies to be followed by recipients of Federal assistance under section 6 of the Act.

The definition of "procurement" has been rewritten to clarify that it does not apply to those agency functions which are concerned with mission or program development or which are related to an agency's supply function. Procurement is defined as including all stages of the process of acquiring goods and services beginning when an agency determines that a need is to be fulfilled through the contracting process and ending when the contractual instruments used to obtain the property or services are administratively closed out.

The term "standards" refers to the criteria by which the procurement function will be measured. Government-wide standards will generally be very broad and will have universal application -- e.g., classification standards for the procurement work force or identification of areas in which agencies should prescribe standards. Agency standards may vary from agency to agency, or even within an agency, but it is essential that there be standards throughout the system.

SYSTEM LEADERSHIP AND COORDINATION

Section 5 deletes those functions of the Administrator that have been completed, updates those that are to be continued and adds a new Procurement System leadership role. It also deletes the current requirements for uniform procurement system and central management system proposals. These were furnished to the Congress on February 26, 1982.

Section 5 adds a new section 6 to the Act. Subsection (a) sets forth the overall leadership role of OFPP, outlines the functions of the Administrator, and provides for continuity of leadership and coordination.

Subsection 6(a)(1) restates the current law with respect to the Administrator's responsibility to develop and issue Government-wide procurement policies. These policies are to be in accordance with applicable laws and are to be followed by the executive agencies and for procurements made under Federal grants or cooperative agreements. OFPP policy directives generally do not include detailed regulations and procedures and, therefore, may require the executive agencies to issue implementing regulations.

Subsection 6(a)(2) adds a new role for the Office of Federal Procurement Policy of coordinating the development of Government-wide standards for the operation of executive agency procurement systems. As outlined in the Administration's Federal procurement system proposal, agency Procurement Executives, in coordination with OFPP, will examine the various parts of the procurement system to determine the specific areas where Government-wide standards will be established. These standards will cover the procurement process, the management system, and the work force. Once specific areas are identified within each part of the procurement system, Procurement Executives will normally define the best way to measure performance and establish specific levels of desired performance in the agency for each measure. Agency Procurement Executives will also identify agency-unique areas where standards should be established. Once standards are fully implemented, agency Procurement Executives will use them to certify the adequacy of their procurement systems to the agency head.

Subsection 6(a)(3) recognizes that responsibility for developing the Government-wide regulation has been shifted to the Department of Defense, NASA, and GSA. OFPP will continue to provide overall leadership in the development and maintenance of the Government-wide regulation, as well as in the development and maintenance of simplified Government-wide procedures and forms.

Subsection 6(a)(4) restates OFPP's current responsibility of providing leadership and coordination in the formulation of executive branch positions on legislation relating to procurement.

Subsection 6(a)(5) changes the current law to recognize that the Federal Procurement Data System has been established and is now operating. OFPP's new role will be one of improving and maintaining this data system, especially to improve the quality of the data collected. In addition, OFPP will explore with the agencies potential opportunities for agency use of the Federal Procurement Data System to support day-to-day management and operations.

Subsection 6(a)(6) requires OFPP to complete action on the recommendations of the Commission on Government Procurement by either taking action to implement them or to reject them and advise Congress of the reason for rejection. The recommendations are some ten years old and it is time to resolve the remaining open ones and bring this matter to a close.

Subsection 6(a)(7) requires the Administrator to establish criteria and procedures to ensure an effective and timely method of soliciting the viewpoints of interested parties in the development of procurement policies and regulations. The purpose of this subsection is to clarify and restate the intent of Congress that there be opportunity for interested parties to participate effectively in the development of procurement policies and regulations. This is not limited to policies developed by OFPP and the solicitation of viewpoints by OFPP. Rather, OFPP will establish Government-wide procedures and criteria which will apply to any procurement policies and regulations which significantly affect the private sector. It is intended that these criteria and procedures be uniformly implemented through the Government-wide procurement regulation insofar as they apply to that regulation or to agency implementing regulations.

Subsection 6(a)(8). The functions relating to the FAI (previously sections (a)(4) and (5)) have been removed from this section and are now found in Title II, which transfers the FAI and its functions to GSA. The new section, (a)(8), has been added to give the Administrator policy direction and oversight of the FAI in its pursuit of its mission and objectives.

Subsection 6(b) gives the Administrator new authority to develop innovative procurement methods and procedures to be tested by selected agencies notwithstanding any other provisions of law. Such tests will require the concurrence of the OMB Director and the head of the agency or agencies concerned. OFPP will have to notify the Congress 60 days in advance when

the tests require waiver of existing provisions of law and include such information in the notification as a description of the planned test, its scope and purpose, the procedures to be followed, the executive agencies involved, and what actions are planned when the test is completed. In developing these tests, the Administrator will consult with the Small Business Administration to ensure that the interests of small business firms are considered. The Administrator is expected to use this new test authority to make improvements in the Federal procurement system.

Subsection 6(c) amends the current section on consultations with executive agencies in the development of the Federal procurement system. The new language recognizes that the system development is now completed. It has been broadened to provide for consultation with the executive agencies in connection with the performance of the Administrator's functions under this Act, including operation and maintenance of the new system. To accomplish this, the Administrator may designate an executive agency or agencies, establish advisory committees or interagency groups, or otherwise use agency representatives or personnel.

Subsection 6(d) gives the Administrator new authority to detail Office of Federal Procurement Policy employees to other executive agencies. In combination with section 6(c), this will enable the Administrator to carry out an exchange program to ensure that OFPP employees maintain their expertise in agency procurement operations and to allow agency procurement personnel to actively participate in the development of Government procurement policy.

UNIFORM FEDERAL PROCUREMENT REGULATIONS AND PROCEDURES

Section 6 deletes Sec. 222 of Act of October 24, 1978 (41 U.S.C. 405a), which authorized the Administrator to promulgate a single, simplified uniform procurement regulation.

PROCUREMENT REGULATIONS, PROCEDURES AND POLICIES

Section 7 redesignates existing section 7 (Administrative Powers) as section 15. The provisions of the current law, which enable the Administrator for Federal Procurement Policy to call on the agencies for assistance in developing Federal procurement policies, have not been amended. The intent of this section is to continue to provide for meaningful participation by the agencies in this process.

Section 7 also adds a new section 7 to the Act, which states that the Administrator shall provide overall leadership and coordination for the development and maintenance of a Government-wide procurement regulation, as well as procedures and forms. It recognizes the regulatory authority of the Secretary of Defense, the Administrator for General Services, and the Administrator of the National Aeronautics and Space Administration. These agencies will jointly issue the Federal Acquisition Regulation after soliciting and taking into account the views of executive agencies. The Administrator for Federal Procurement Policy, under his overall policy directive authority, will facilitate the resolution of conflicting views among those agencies.

DOD, GSA, and NASA, in exercising this authority, will work together to ensure to that regulations, procedures and forms are promulgated in a single, simplified Government-wide regulation. If these agencies are unable to resolve conflicting views on a procurement-regulatory matter, the Administrator for Federal Procurement Policy is authorized to facilitate the resolution. This may involve a policy decision which the Administrator has authority to make, or the arbitration of differences, or arranging for resolution by the Director of OMB.

It is also intended that the needs and views of other agencies be considered in developing the Government-wide regulation. They should be given the opportunity to participate in developing and maintaining the regulation whenever practical. Agency regulations implementing or supplementing the Government-wide regulation shall be limited to unique agency requirements.

Section 7(b) creates a system of regulations by requiring that all agency procurement regulations shall be in accord with the Government-wide procurement regulation (the Federal Acquisition Regulation) and with the procurement policy directives issued by the Administrator for Federal Procurement Policy.

This subsection reiterates the intent of Congress that agencies shall not issue procurement regulations that conflict with the single Government-wide regulation. The Government-wide regulation is intended to serve most needs, and should only be supplemented for unique agency requirements or internal management-type procedures. Further, both the Government-wide regulation and agency unique regulations must conform to policies issued by the Administrator for Federal Procurement Policy.

FEDERAL PROCUREMENT DATA SYSTEM

Section 8 provides that the Federal Procurement Data System (FPDS) will continue to be run by the General Services Administration as the executive agent of the Administrator. The Administrator will provide the oversight to ensure that it takes into account the data needs of the Congress, the President, executive agencies, and the private sector. GSA, as executive agent, will operate the data system under its current design. Because of the impact data changes would have on agencies' procurement and data processing, any modification to the FPDS design must be approved by the Administrator.

THRESHOLDS

Section 9 redesignates the existing section 9 (Applicability of Existing Laws) as section 16, and adds a new section 9 to the Office of Federal Procurement Policy Act which authorizes the Administrator to adjust the small purchase ceiling. Section 2304(i) of the Armed Services Procurement Act and section 302(g) of the Federal Property and Administrative Services Act set a ceiling for small purchases at \$25,000. This ceiling, which started at \$1000 in 1947, has been adjusted by Congress periodically to reflect inflation. Authorizing the Administrator for Federal Procurement Policy to adjust this ceiling to reflect changes in the economy will preclude the necessity of taking this matter back to Congress every few years; tying the adjustment to selected economic indices is a safeguard against

arbitrary adjustments; and limiting the adjustments to not more often than every three years will ensure adequate stability. The Administrator will give written notice of any proposed revision to both Houses of Congress at least sixty days in advance of the effective date of the revision.

DELEGATION OF AUTHORITY BY ADMINISTRATOR

Section 10 deletes section 10 (Effect on Existing Regulations) in its entirety. This section provided that procurement policies, regulations, procedures, and forms continued in effect until repealed, amended, or suspended pursuant to the adoption of the uniform procurement system. It redesignates former section 12 as new section 10, which permits the Administrator to delegate certain authorities and functions, except the basic authority to provide overall leadership in the development of Federal procurement policies and implementation and maintenance of the Federal procurement system and to adjust thresholds. Thus, the Administrator may delegate authorities and functions, for example, to interagency groups, or to an individual agency acting as executive agent for OFPP. The Administrator may also delegate functions in connection with developing Federal procurement policy, but must retain overall direction for such efforts.

FURNISHING INFORMATION TO THE CONGRESS AND COMPTROLLER GENERAL

Section 11 of the Act incorporates old sections 8(a) and 14(a) of the Office of Federal Procurement Policy Act. This section continues the current requirements to furnish information to the Congress and the Comptroller General, with minor revisions. It requires that the Administrator keep the Congress and its duly authorized committees fully and currently informed of the major activities of the Office of Federal Procurement Policy. It deletes the current requirement for an annual report to the House of Representatives and the Senate and substitutes for that requirement the Federal Procurement System progress reports discussed below under section 12. This section also continues the current law to provide records access to the Comptroller General and to provide such information as he may require from time-to-time for the exercise of his responsibilities.

PROGRESS REPORTS

Section 12 adds a new section 12 to the Office of Federal Procurement Policy Act which requires the Administrator to keep the Congress informed yearly on the progress of OFPP and the agencies in establishing and implementing the Uniform Federal Procurement System.

NON-INTERFERENCE WITH EXECUTIVE AGENCIES

Section 13 adds a new section 14 (Noninterference with Executive Agencies), which was section 6(f) of the Act.

Section 14 amends the Act by adding sections 17 through 21.

(a) RESTRICTIONS ON DELEGATIONS OF OTHER FUNCTIONS

Section 17 is the former section 6(g). It restricts the delegation of functions to the Administrator, other than those specified in this Act or in other laws.

(b) AUTHORITY TO RESCIND REGULATIONS

Section 18 is essentially the former section 6(i). It authorizes the Director of the Office of Management and Budget to deny or rescind the promulgation of any final rule or regulation relating to procurement, including the Government-wide procurement regulation, if the Director determines that such rule or regulation is inconsistent with the policies set forth in the Office of Federal Procurement Policy Act or is inconsistent with any policy directive of the Administrator. Rescission authority at this level in the Executive Office of the President is intended to ensure an effective and responsive Federal procurement system.

This section continues an authority previously given to the Director of OMB to ensure that agency unique regulations and the Government-wide regulation conform to procurement policies issued by OFPP. This authority should be invoked rarely, if ever. However, OMB should have such authority as a safeguard in the public interest.

(c) AUTHORITY TO TEST NEW CONCEPTS

Section 19 provides authority and direction for testing of the new procurement concepts. The Administrator will work with the heads of agencies to decide what to test, develop guidelines and procedures, select the testing agencies, and establish methods to evaluate test results.

(d) SUBMISSION OF POLICY MATTERS TO CONGRESSIONAL COMMITTEES

Section 20 consists of former subsections (b) and (c) of section 8 of the Office of Federal Procurement Policy Act which subsections have been amended to include the name of the House and Senate Committee to which policy notification should be referred. Section 20 provides for advance notification to appropriate committees of policy matters, including the reasons for issuing the policy and the names of OFPP people to be consulted regarding the policy.

(e) AUTHORIZATION OF APPROPRIATIONS

Section 21 would amend the Act's current provisions (section 11) for authorizing OFPP appropriations to remove the dollar ceiling in the present

law and extend the life of the OFPP for 5 years to cover the expected implementation phase of the Federal Procurement System. It also removes the reference to one third of OFPP's budget being made available to the FAI, which will be transferred to GSA under Title II.

This section also lists the Committees of the House and Senate to which authorization legislation will be referred.

TITLE II

Sec. 201 states the purpose of the title, which is to transfer the FAI to GSA.

Sec. 202(a) lists the functions of the FAI, which are basically those previously contained in section c of the OFPP Act (41 U.S.C. 405 (a)(4) and (7)). The Institute will be under the policy direction and oversight of the Administrator for Federal Procurement Policy.

(b) The FAI's functions will be carried out in accordance with the Federal Property and Administrative Services Act.

Sec. 203 states that the Director of OMB will determine which and how much of the FAI's personnel, property, and records will be transferred to GSA from FAI.

Sec. 204 authorizes appropriations for the FAI.